

FOX RIVER PCB CLEAN-UP PUBLIC FORUM

With

 **ORIGINAL**

CONGRESSMAN STEVE KAGEN, M.D.

TRANSCRIPT OF PROCEEDINGS

DATE: May 5, 2007

TIME: 12:01 p.m. - 2:15 p.m.

LOCATION: ST. NORBERT COLLEGE
Fort Howard Auditorium
De Pere, Wisconsin

PANELISTS: Dr. Roger Kuhns
Jim Hahnenberg, EPA
Greg Hill, DNR
Rebecca Katers, Clean Water
Action Council

MODERATORS: CONGRESSMAN STEVE KAGEN, M.D.
CASEY FRARY

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TRANSCRIPT OF PROCEEDINGS

CONGRESSMAN KAGEN: Good morning, everyone. Thank you all for being here and taking time out of your busy schedule to help make a difference in your community, to help make a difference not just in the Fox River health but in the health of everyone living here and hopefully set a course and a new standard for America on how to deal with environmental pollution.

This is a good time to remind everyone to turn off your cell phones and your pagers, especially the panelists. You can answer it some other time.

As all of you know, the Fox River is the heart of our community. Every single one of us here today shares the same goal. We want a healthy river because the health of our Fox River determines our health as well. There can be no separation between human health and the health of our environment.

To clean up the Fox River really requires everyone's effort. As we restore its health, our wildlife will do better and all of us will as well. And as many of you know, I've raised

1 some concerns about the current plan that the
2 Environmental Protection Agency is now
3 considering.

4 Two of these concerns include the overall
5 safety and the long-term effectiveness of the
6 so-called capping proposal and the possibility
7 of losing our navigation channel for future
8 business and recreational uses.

9 I do not believe that capping is the best
10 solution for what is in front of us. We must
11 think about the long-term health and risks and
12 costs associated with capping proposals. It's
13 not just about the short-term costs. It's about
14 the human costs as well.

15 We understand these facts: First, this is
16 the largest PCB removal project, most aggressive
17 plan in the United States of America.

18 Second fact is, unfortunately, this zip code
19 of De Pere is a hot spot not just for PCB
20 content but for the incidence of breast cancer
21 among women and also mortality from breast
22 cancer.

23 Statistics, however, do not produce a
24 cause-and-effect relationship, but there is a
25 statistical association and we must ask a

1 question: Is this a coincidence?

2 This forum today is an opportunity for our
3 community to raise questions and concerns about
4 the plan under consideration, about the process
5 and the science of capping. This is an
6 opportunity for all of us to further our input
7 into this decision-making process that will be
8 imminently going forward.

9 As this process continues, I look forward to
10 continuing to work with the DNR, with the EPA
11 and with everyone else in the scientific
12 community and with those who matter most, the
13 people that live and recreate and work here in
14 the Fox Valley.

15 It is critically important that our
16 community be involved and well-informed during
17 all aspects of this clean-up process and I would
18 like to let everyone know in advance that I will
19 unfortunately today have to leave at 1:45. I'll
20 be attending the funeral of a fallen soldier,
21 Nick Riehl, in Shiocton. So I'm sorry to have
22 started late but if we carry over just a bit, as
23 moderator, my staff assistant -- and the title
24 officially of Ms. Frary is legislative assistant
25 or legislative director from Washington, D.C., a

1 graduate of Marquette -- she will take over.

2 I want to thank the panelists for being
3 here. Greg Hill, project manager from the
4 Wisconsin DNR, thank you for being here. Jim
5 Hahnenberg, remedial project manager from the
6 EPA in Chicago. Thank you very much, Jim, for
7 being here. Rebecca Katers, Executive Director
8 of Clean Water Action Council, thank you for
9 being here, and for all of your hard work for
10 starting the process of examining the best way
11 forward. And also, Dr. Roger Kuhns, a known
12 expert worldwide in environmental and geological
13 processes who has restored rivers across many
14 different continents.

15 Thank you all for being here, and the agenda
16 is now in the hands of Casey Frary, who I
17 introduced to you. Thank you.

18 MS. FRARY: Hello, everyone. What
19 we're going to do real quick is we are going to
20 have each of the panelists give just a brief
21 statement that is going to address some of the
22 comments that the forum is going to focus on,
23 and after that we are going to have a
24 question-and-answer period.

25 We are going to have two staff members on

1 each side of the aisles who will have
2 microphones. At the end of the panelists'
3 statements, if you have a question, feel free to
4 head over to one of them. We'd ask that you
5 keep your questions relatively short in nature.
6 I imagine there is going to be a lot of them so
7 we want to get through as many as possible.

8 If you are with any organization or a local
9 community leader, let us know that.

10 When you state your name, if you have a
11 slightly complicated name, if you wouldn't mind
12 spelling that for our reporter, that would be
13 very much appreciated, and other than that, we
14 are going to go ahead, get started. And, Greg,
15 if you would like to start, go ahead.

16 MR. HILL: Good afternoon. We switch
17 from morning to afternoon real quickly here.
18 Unlike some of you, I've got two easy names, two
19 four-letter words, Greg Hill. I'm not going to
20 have to spell them.

21 As the Congressman said, we are lucky to be
22 in a situation where we have the most aggressive
23 PCB clean-up ongoing in the nation. The state
24 is the lead agency on this Superfund process,
25 not a Superfund site but a Superfund process

1 where for the last seven years or more, we have
2 been looking at data and developing proposed
3 actions to address the PCB contamination which
4 contaminates the food source for humans.

5 The risk that is associated with the PCBs
6 from this river is due to the fish
7 contamination. We have established clean-up
8 levels based on reducing the exposure of PCBs to
9 those fish and therefore, reducing the exposure
10 of humans.

11 We originally proposed a clean-up plan that
12 was dredging but with a provision that capping
13 could be included if it could be shown to be as
14 effective, as cost effective and as permanent,
15 both in the short-term and the long-term, as
16 dredging.

17 I recognize a number of faces in this crowd
18 as those who participated in a comment period
19 back in early December during the formal
20 Superfund process public comment period. And
21 I'm glad to see that you're here again to make
22 sure that all of the information is shared and
23 all of your concerns are addressed.

24 Let me say that we are advocating this
25 proposed change because we are interested in

1 getting the best environmental solution to
2 reduce the risk of PCBs to human health and the
3 environment. As I said, it's the most
4 aggressive clean-up of a PCB site in the
5 country. It has the cleanest or the tightest
6 clean-up standard of one part per million, both
7 in the original ROD and in the proposed remedy
8 change. And it is one of the tightest time
9 frames which we believe is critical in removing
10 the exposure to the risk caused by PCBs.

11 We proposed that, DNR and EPA proposed the
12 modified plan because we got new information.
13 We found out that there were higher
14 concentrations of PCBs in different locations
15 than we originally thought there were in the
16 original ROD.

17 We also looked at the existing data from
18 other dredging sites, both on this river and
19 throughout the country, and we determined that
20 dredging alone could not adequately reduce the
21 concentration of PCBs in the surface sediments
22 in the river in a short amount of time.

23 We found that residuals continued to cause
24 an increased exposure of PCBs to the food chain
25 through the fish to the humans.

1 We evaluated, just as we said we would in
2 the original ROD, the ability to cap as well as
3 dredge in order to meet the clean-up standard,
4 and we proposed that a combination is the right
5 thing to do.

6 The decision is not final. We received
7 comments; we received lots of comments during
8 the formal comment period. We are still
9 evaluating those comments, and I think Jim will
10 describe the process that we're going through in
11 evaluating those comments before we make a final
12 decision.

13 I noticed as I sat down that there were four
14 questions for each panelist, and I apologize for
15 not having the answers to them because I didn't
16 see the questions before I arrived this morning.

17 The question, "Is it permanent?" That
18 question has been raised regarding PCBs ever
19 since we heard -- ever since the public heard
20 that they have a long stability lifetime; that
21 they will last for four hundred years.

22 I think I see some of the faces that were in
23 the crowd when there was a proposal to license a
24 landfill on the Georgia-Pacific property for
25 disposal of some of the sediment that's being

1 dredged right now just upstream from where we
2 are. The concern was you can't put them in a
3 landfill because it's not permanent. When you
4 have a long-lived substance, "permanent" is a
5 relative term. What we have to do is reduce
6 risk and find an engineered solution that we
7 believe is adequate to reduce the risk and
8 address the risk over a long period of time.

9 The second question is: "Are there other
10 navigable rivers that have been capped?" And
11 the answer is yes. Now, I'm not prepared to
12 share with you a list. We can provide that to
13 the Congressman following this meeting. But
14 this would not be the first river that was
15 capped in order to address environmental
16 pollution.

17 "Are you aware of any river sediments
18 contaminated by PCBs that have been remediated
19 by this process?" Yes.

20 "In your expert opinion as a professional
21 environmental scientist, do you believe that the
22 PCBs in the Fox River should be capped?" As I
23 said, both EPA and DNR have proposed this
24 modification because we believe that it's the
25 best environmental solution to address the

1 contamination of PCBs in the food chain at this
2 site. Jim?

3 MR. HAHNENBERG: Thank you, Greg.
4 I'll try not to repeat some of what Greg Hill
5 said, but as to some of the questions on the
6 Congressman's list here to address, "Is capping
7 a permanent solution?"

8 As Greg indicated, we have looked at this
9 before, the proposed plan. Our judgment in that
10 initial process was that we do believe based on
11 engineering and scientific evaluations that caps
12 should remain stable in the river for this
13 project. So we do think it would be a permanent
14 solution, relatively permanent. Nothing is ever
15 permanent. That's not a real good word in a lot
16 of cases, but we do believe they would be stable
17 in the long-term; they would be protective.

18 And to talk a little bit about the concept
19 of protectiveness, that is EPA's mission really
20 to ensure that whatever we do is protective for
21 human health and the environment. And that is
22 why in the Superfund process, there's nine
23 criteria we have to evaluate for any remedy.

24 The first two criteria are protectiveness
25 and they must meet all laws and regulations.

1 For protectiveness, of course that's
2 probably the preeminent criteria, really, so any
3 alternative we determine will be implemented
4 must be protective in the agency's judgment. So
5 it has to first meet those two criteria before
6 we go forward.

7 The other seven criteria, five of them are
8 technical kind of things. One is long-term
9 effectiveness, another is short-term
10 effectiveness. The other is implementability;
11 can you do it?

12 There is a preference for treatment that we
13 always look at and there is cost-effectiveness.

14 Many people seem to feel that
15 cost-effectiveness is the only thing we looked
16 at in this proposal. But I can assure you it's
17 not. We did look at all nine criteria. The
18 other two, by the way, are community acceptance
19 and state acceptance. They're also important as
20 well as the other ones.

21 But we did look at all nine criteria, and
22 after we first meet the two threshold criteria
23 for protectiveness, meeting all laws and
24 regulations, then we do a comparison of the
25 other criteria to kind of do a comparison

1 between the alternatives as to which one shakes
2 out as the best overall approach.

3 So we weigh in all those factors in our
4 decision-making process. And in that process,
5 Greg indicated we are going through the final
6 stages of our evaluations of the proposed plan
7 and consideration of all the comments that we
8 did receive during the public comment period.

9 And the Congressman and others have said,
10 "Well, can't you consider newer comments?" Yes,
11 we can. In the Superfund process, we do have a
12 comment period so that we can try and manage
13 this process and get it done in a reasonable
14 amount of time, kind of come to a decision. But
15 that's not to say if there isn't new
16 information, compelling information that tells
17 us there is something we should still take
18 another hard look at, we certainly would
19 consider that. And that can be even done after
20 a decision as this really is. A decision was
21 made, new information came forward, so we do
22 reconsider the original decision and then we can
23 make changes from there.

24 So it is possible to consider that and we
25 will certainly be looking at the information we

1 are getting currently before we make the final
2 decision.

3 Just to mention that process again, what
4 will result once we are done with that process
5 is we will have a decision and that will be
6 documented in the Record of Decision Amendment
7 in this case which is a change to an earlier
8 decision.

9 Along with that we will also have what we
10 call a responsiveness summary. What that is is
11 we have a written response to every comment that
12 we have received so people will have answers to
13 all the comments that they have given to us, and
14 we will have a written response to every
15 comment. We combine comments which are similar,
16 but we respond to every comment, every
17 substantive comment we will respond to and
18 consider that in the final decision.

19 As to some of these other questions here on
20 the list, "Other rivers, have they been capped?"
21 As Greg indicated, there are a few where that
22 has been done. We want to gather some more
23 information on that, which will be forwarded to
24 the Congressman and others if they are
25 interested. We don't have all that information

1 together today, but we are looking at that.

2 There are a couple projects on the East
3 Coast, a couple of projects on the West Coast
4 that we're going to try to get some more
5 information on. There are a number of other
6 projects, capping projects, around the world and
7 in this country that have been done, other kinds
8 of projects that have been done in various bays
9 and harbors and estuaries, some marine
10 environments, some freshwater environments, so
11 we do have those projects as well that we are
12 looking at.

13 And last question on the list here is, "Do
14 you think that the Fox River is a project that
15 should involve capping?"

16 As Greg indicated, in the proposed plan, we
17 did determine that this would be an appropriate
18 mix of remedies. And one thing I did want to
19 mention is that the proposal we have in the
20 proposed plan is not just a capping remedy.
21 It's a mixture of dredging and capping. It's
22 about 50/50.

23 The original remedy was about 95 percent
24 dredging and 5 percent capping. It would have
25 been along shorelines which would be unstable if

1 you dredge those areas. There would have been
2 some small amount of capping in the original
3 remedy.

4 This remedy would be about 50/50, roughly,
5 in terms of how much we would cap and how much
6 we would dredge.

7 The way we approached it for this proposal
8 was to look at areas that made the most sense to
9 dredge, the most sense to cap. We looked at
10 this in great detail to try and determine which
11 areas would be best suited to each of the
12 alternatives.

13 As Greg did indicate, this is the largest
14 environmental sediment project that has been
15 done in this country to date. And the dredging
16 portion of this remedy, which will be around
17 three and a half million cubic yards in the
18 proposed plan, would still make it the largest
19 environmental dredging project that has ever
20 been done to date. It's even bigger than the
21 Hudson River which you may have heard about, so
22 it would be still the biggest dredging project
23 for environmental reasons that has been done in
24 this country.

25 That's all I have to say, and we will have

1 more questions and answers, I'm sure. Thank
2 you. Rebecca?

3 MS. KATERS: My name is Rebecca
4 Katers. I'm executive director of Clean Water
5 Action Council which is a local citizen group
6 that formed in 1985. One of our prime issues
7 from the very beginning was the clean-up of the
8 Fox River, so we have been involved all along.

9 I wanted to speak to partly the process as
10 well as the issues here. It's important to
11 recognize that for the past 21 years, since the
12 beginning of the Remedial Action Plan process
13 that produced this in 1988, the past 21 years,
14 we have had the voluntary cooperative approach
15 to solving this problem; 21 years.

16 In 1997, Superfund was suggested as a way of
17 trying to speed up this process through actual
18 law enforcement but instead, the state insisted
19 on the voluntary cooperative approach.

20 And for the past 10 years as a result, all
21 of the meetings have been secret. They've been
22 closed-door meetings with industry, between the
23 industry and agencies, coming up with drafts for
24 us to look at. Each draft gets progressively
25 worse until we now have essentially an industry

1 plan written by industry consultants, overseen
2 by an allied industry, Boldt Construction from
3 the Fox Valley.

4 This is an industry plan. This is not an
5 independently produced scientific document.
6 It's a very one-sided approach behind closed
7 doors. We were not allowed to send our expert.
8 The media were not allowed to observe. We had
9 no input into what was going on in those secret
10 meetings as they hammered out the technical
11 details of this issue.

12 It's very important to understand any time
13 there is an issue of this complexity, there are
14 going to be serious scientific debates. And
15 this debate was restricted to one side only, the
16 corporate side only. So it is not surprising we
17 ended up with a plan that industry has been
18 pushing for for 20 years: Capping.

19 I think it's important to recognize that
20 it's not too late. Even though many of us are
21 anxious for progress, we also recognize that we
22 don't want the wrong kind of progress. That
23 would be a negative. It's not too late to
24 reopen and examine these issues carefully. So
25 we are extremely grateful to Congressman Kagen

1 for initiating this process. And it's a breath
2 of fresh air to have a congressman, an elected
3 official who is actually listening to citizen
4 concerns. We have not had that impression up to
5 now.

6 I'd like to respond to a couple of comments
7 made regarding the criteria. There are nine
8 criteria regarding a Superfund-type process. We
9 are in a pseudo-Superfund process right now.

10 The long-term effectiveness is one of the
11 key criteria. The DNR was quoted recently as
12 saying well, they have to go with the least-cost
13 option. That's not true. They also have to
14 look at long-term effectiveness, trying to find
15 permanent reductions in risk. Treatment is
16 supposed to be a high priority, not just
17 landfilling or capping but actually
18 detoxification of the more serious level
19 material, and they're supposed to be looking at
20 annual maintenance cost into the future.

21 They're only looking 40 years in the future
22 with the capping plan. We know hundreds of
23 years have to be accounted for. These caps are
24 going to have to be watched forever. It's a
25 large area scattered in the last seven miles of

1 the river. It will be very difficult and costly
2 to maintain and monitor those caps on a regular
3 basis, but that is not figured into the costs.
4 That's a serious concern.

5 Overall protection of human health and the
6 environment. We have already demonstrated that
7 on Little Lake Butte des Morts, the upper
8 reaches of the stretch of the Fox River.
9 They've had three years of very successful
10 dredging, disposal of contaminated sediments;
11 three years.

12 They've already demonstrated this technology
13 and yet they're telling us that we have to go
14 with an untested technology. Regardless of what
15 they say, there is no other river of our type in
16 a northern latitude with a lot of ice and
17 freezing issues that has been capped for any
18 length of time. There are some that are being
19 capped right now but they have not withstood the
20 test of time. And that's the key that we're
21 most concerned about. Sure it will work great
22 in the short-term. You're going to get some
23 very rapid results. You'll get a great clean-up
24 in the short-term. But what will our kids and
25 grandkids say when the caps start failing and

1 spilling the material back out in the system
2 again? That's the long-term effectiveness that
3 we need to be concerned about.

4 I think there are two issues that are being
5 confused by the agencies. A comment was made
6 that they don't want to leave PCBs behind on the
7 surface sediment. Well, I think everybody
8 agrees with that and after you dredge, yes,
9 there will be some residual on the surface. It
10 temporarily is going to be a little more
11 contaminated on the surface. So in those cases
12 it might be reasonable to lay some sand to
13 temporarily keep that suppressed until the
14 system starts to recover.

15 But that's not the same as the type of big
16 caps that they're talking about, burying tens of
17 thousands of pounds of PCBs under caps. Those
18 massive PCBs is what we want to get out of the
19 river. The large volume has to be removed in
20 order to get a permanent solution here, and that
21 is not happening with capping.

22 I'll conclude with that except just to say
23 that I appreciate your being here. These
24 questions are important. The Congressman is
25 asking excellent questions and I hope you will

1 all support his efforts. He's getting beaten up
2 by a lot of people for this and we need to show
3 support for him. Thank you.

4 MS. FRARY: Last but not least,
5 Dr. Roger Kuhns.

6 MR. KUHNS: It's a honor and a
7 privilege to be here, and I mean that because
8 this is an issue that is not just local. We
9 have this kind of problem on rivers not just in
10 the United States but elsewhere as well. So if
11 we can innovate and come up with a long-lasting,
12 truly a permanent solution, then the Congressman
13 can take this to Washington D.C. and we can
14 apply it to other places because you never know
15 where your kids are going to live.

16 PCBs are persistent and long-lived
17 compounds. And what is compelling about a new
18 piece of information -- and I think we need to
19 explore that a little bit and I hope you have
20 some questions on that -- what is a new piece of
21 information? And if that piece of information
22 seeks a permanent solution or we have learned
23 something new about the river, what would happen
24 if we waited two years and studied the river
25 again? What would it look like?

1 Rivers are dynamic systems. Rebecca just
2 mentioned what happens if a cap erodes? Let me
3 take you through a storm event, an unusual storm
4 event, say a thousand-year storm event.

5 Typically, an engineer for a storm water
6 management plan will use a two to three-year
7 storm event to look at the basic behavior of a
8 river and a hundred-year storm event to plan for
9 a flood. But we know this river has seen larger
10 floods than that. All rivers have.

11 So we put a cap in and we are going to call
12 it permanent. This cap has rock on it, sand on
13 it and a certain thickness of PCB-contaminated
14 sediments underneath. What will happen? First
15 of all, you could bury it with more sediment and
16 not even know where it is in 10, 20 or 30 years.
17 But you could also start eroding a portion of
18 the edge of it in one storm event, expose and
19 transport that contaminated sediment in the same
20 storm event, and then bury that part of the cap
21 as the water starts receding and not even know
22 that that cap has been damaged.

23 This kind of erosion, deposition,
24 redeposition, happens in rivers all the time.
25 And this is why the modeling that has been done

1 is really -- it's brave, good work -- this is
2 not a small, trivial thing that these guys have
3 tried to do and we must commend them for trying
4 that because we learned a lot of things about
5 the Fox River in this modeling.

6 But the thing is, there is a great
7 uncertainty. And that means it's not permanent.
8 We cannot use that word "permanent" if you're
9 capping in a river.

10 I'm a geologist. I've been working on
11 rivers for 30 years. You can't believe some of
12 the storms I've seen, and you can see boulders
13 this big moving and you can hear them in some
14 big storm events. You hear them roll over,
15 clunk, clunk, clunk. It's amazing the power of
16 water when you have an unusual storm event.

17 Now, are we going to have that kind of thing
18 here? Here is something to consider. Some of
19 the reviewers said that not all of the
20 tributaries that empty into the Fox River, the
21 volumes of water that come in have been
22 adequately considered in the volume for the
23 cubic feet per second flow of this river.

24 One of the things we see as a geologist and
25 ecologist who works on restoration projects --

1 we see this all the time -- we see flood
2 sequences getting bigger in urban environments.
3 Why is that? As the Fox River continues to
4 develop, it will create more impervious
5 surfaces. This means more water will end up in
6 the Fox River which gives a faster volume rise
7 during a storm event. That means if we don't
8 anticipate this in a model -- and it has not
9 been anticipated in this model -- we have a
10 model that is inaccurate. That means we have no
11 permanent solution.

12 So the permanent solution, really, as
13 Rebecca said and as many people have said, is
14 you've got to get the stuff out. There is
15 really no other way to put it. Then we treat it
16 on land where we don't have the uncontrollable
17 hazard of a water environment.

18 This is more expensive. I've worked on
19 dredges. Dredges are tricky things. This is
20 more work. But when we have something as
21 persistent and as dangerous as a PCB compound,
22 all 209-plus, we really don't have a negotiating
23 point here as far as the contamination in human
24 health and the environmental health is
25 concerned. The PCB doesn't care what it's going

1 to do to us. It's just a compound, so we have
2 to get it out.

3 And that's why we really can't cap this. I
4 have never seen a capped river system that has
5 had the longevity of lasting and surviving big
6 storms. There are capped river systems, systems
7 that have pollution in them that has been
8 capped. Not all of it is PCB pollution, by the
9 way. And these were done usually for cost and
10 expediency and in some cases they're a little
11 older before we fully understood what's going
12 on.

13 But PCBs are different. They're persistent.
14 We don't know how long they last, and Jim and I
15 were just talking about that. What is the half
16 life? You can't find anybody who can say it's a
17 hundred years or five hundred years.

18 So what's going to happen to the Fox River
19 in five hundred years? Two hundred years?
20 Fifty years? We really don't know. And
21 modeling is a tricky business.

22 The questions that have been asked are good
23 questions. And so obviously, the first one is:
24 "Is capping a good solution?" I've got to say
25 no, it's not. It's not a permanent solution.

1 And if we look at other navigable rivers where
2 this has been applied, and also the third
3 question, "Are you aware of any river sediments
4 contaminated by PCBs that were remediated by
5 this process?" I have the same answer: None
6 that I know of that have the longevity to
7 confirm that they can be a permanent solution.
8 So you can't take an example that's, in essence,
9 out of context. We have to compare apples with
10 apples.

11 And Rebecca is also right in saying we are
12 in the northern climes here. We have other
13 things besides just water. We have ice to worry
14 about, okay.

15 So these are key things that we need to
16 consider in making a well-informed decision. So
17 with the knowledge of what can happen in one
18 storm and with the uncertainty of a model and
19 with not really good, long-lasting existing
20 examples that we can go to, we have a problem.

21 This will cost more tax dollars. Nobody
22 wanted the PCBs to be there but it is our
23 responsibility now to get them out. So we have
24 to learn how to manage this and we have to move
25 ahead. So I would say that capping this stuff

1 in the river is not a solution.

2 MS. FRARY: I would like to thank all
3 the panelists for their comments. Just a couple
4 quick things. I know this is an issue that
5 people feel very strongly about on both sides of
6 the issue.

7 This is a forum to get some information to
8 answer questions. Keep that in mind when asking
9 questions. I know people are passionate about
10 it, but let's keep it on the up-and-up.

11 Also, if you would like to direct your
12 questions to the whole panel or a specific
13 panelist, if you could when you ask your
14 question, let them know that as well. That
15 would be great.

16 If we can have the two staff members come
17 down, get the mikes. We're going to have
18 questions on this side and this side so if you
19 would like to ask a question, feel free to come
20 to one of those two sides. We will get the
21 questions started.

22 I think we have our first question over
23 here, so we will start on this side.

24 MR. KRUEGER: Thank you very much.
25 My name is Jack Krueger. I'm the vice chair of

1 the Brown County Board of Supervisors. I'm not
2 a scientist.

3 The county board was faced a couple years
4 ago with making a decision of whether capping
5 would be a viable solution. And we were
6 presented with facts from industry, DNR, that
7 they merely wanted to look at the viability of
8 capping. At those information meetings we were
9 promised a public hearing. I hope this isn't
10 constituting a public hearing.

11 At the same time, I want to talk about how I
12 came to my decision, not being a scientist, on
13 capping as not being the solution. And it kind
14 of goes back to how an everyday "Joe Blow" who
15 is not a scientist comes to these decisions
16 which I am charged as an elected official to
17 make: Accountability. That's what my dad
18 taught me, and he called it tough love. He held
19 me accountable for making bad decisions.

20 Bad decisions have been made. Mistakes have
21 been made, mistakes by the industry back 40
22 years ago or more that have to be held
23 accountable.

24 I understand the scare tactics. Many of the
25 things that have been told us is that it's got

1 to be cost effective. Where do we draw the line
2 between cost effective and human beings' health?

3 As to the navigability of our river, we have
4 been told that the lock system will be restored.
5 We are again going to have navigable waters all
6 the way to Lake Winnebago. The six feet of
7 water in normal conditions -- not low water
8 conditions, in normal conditions -- is not
9 navigable for many of our recreational boats, to
10 say nothing to the fact that if the European
11 model of using our waterways as freight carriers
12 comes about, how would we use our Fox River as a
13 navigable waterway for industry?

14 All of these have not been answered. For
15 those reasons, I voted against capping as a
16 possibility back then. I've maintained that. I
17 was not in the majority. The majority of the
18 county board voted in favor of it. It's what
19 somebody here today alluded to as what's
20 important, our community, community support?

21 When that vote was taken, there was very,
22 very little information given but we were
23 assured that this was not a final decision on
24 whether we supported capping or not. We were
25 assured this was not a final decision.

1 For that reason, many of my colleagues on
2 the county board did support it in looking at
3 it. We were assured a public hearing would be
4 held. That's never been done. Yet today, we
5 hear the DNR and the EPA saying it's a possible
6 solution that they are willing to go forward
7 with if they have community support.

8 I haven't seen that community support. This
9 is about what my dad always said was leaving a
10 good legacy behind us; a legacy.

11 I'm 68 years old. What happens in 50 years
12 is probably not going to matter directly to me.
13 But I do care about it for my seven kids, 14
14 grandchildren and one-and-a-half
15 great-grandchildren. I care very deeply about
16 it.

17 I've never been able to swim in the Fox
18 River at 68 years old. I did swim in the East
19 River and got my backside tanned for that.

20 It is possible for us to clean this river,
21 to have it be a healthy river, to have it be a
22 viable option for shipping, for commerce as well
23 as recreating.

24 I listened to a boater earlier this morning
25 saying his boat takes more than six feet of

1 water. How could he possibly get up the river?

2 Ladies and gentlemen, I just ask you and
3 this panel to look at all the facts, listen to
4 the people.

5 There is so much mistrust in government
6 today. Becky alluded to meetings being held in
7 closed session. It's not how government has to
8 work, nor should it. We need to open this up
9 and let the people be heard.

10 I certainly want to thank Congressman Kagen,
11 his contacts with me. Senator Rob Cowles is up
12 there who has continually, continually in all
13 his terms in State Senate has been fighting for
14 our environment. I respect him immensely.
15 Thank you.

16 MR. ACKER: My name is Bill Acker,
17 last name spelled A-c-k-e-r. At the last
18 meeting, I asked a question of what is the
19 velocity of water that would start to move the
20 cap? And I was promised an answer at that
21 meeting and I have not received an answer, have
22 placed phone calls to Mr. Hahnenberg to remind
23 him that I have not been given an answer. We
24 talked it over. We both agreed that there are a
25 couple of different cap designs. I said, well,

1 then give me the maximum velocity for each of
2 the caps; still have not been given an answer on
3 that.

4 Obviously, this is one of the many important
5 issues that were discussed here today. And
6 certainly if this cap is protective, we want to
7 make sure that that cap is not going to move in
8 these storm events and so we have to know, what
9 velocity are they going to move at? I would
10 like to know why I haven't been given an answer.
11 Thank you.

12 MR. HAHNENBERG: I do apologize for
13 not having given you an answer yet. I will do
14 that. We are going through all the comments now
15 in that process so we'll have that information
16 for you.

17 MR. KUHNS: One of the things in
18 looking at cap stability in any aquatic
19 situation, too, if you're given just a velocity
20 in cubic feet per second, this is a number of
21 what might move a piece of sediment, a rock, a
22 cobble, something like that. But a cap is not
23 so simple a construct because it has edges.
24 It's got a top. You can erode the edges.

25 And one of the things that happens -- and we

1 have seen this in the natural environment in
2 river systems already -- it's how we learned
3 about it was by watching rivers.

4 As you see a bank erode, and I'm sure you've
5 seen this even on the Fox, you've seen it where
6 it cuts under the bank at times and if you stand
7 on the bank, maybe it will fall in. So you can
8 have some really big chunks of rock on top of a
9 cap, and that's not where the river is going to
10 move. The river is going to come over here.
11 The river is like a teenager. It's going to
12 take the easiest path out of the house. So what
13 it's going to do, it's going to start washing
14 that finer-grade sediment away off the edge and
15 that cap starts to become unstable.

16 Again, this is a very difficult thing to
17 track under water. I have done side scan sonar,
18 bottom remote sensing surveys of rivers and
19 oceans and lakes, and you can't always see this
20 stuff. So the question, specifically, Bill when
21 you get that number, put this question to it, is
22 uncertainty enough of a reason to say don't do
23 this?

24 MR. ACKER: I was looking for feet
25 per second to tell us when that cap would start

1 to move, whether it was on the edge or whatever.
2 Thank you.

3 MS. LEFEBRE: I've lived on the Bay
4 of Green Bay since 1971. I'm going to give you
5 just a little history of what happened to us
6 there, then I've got a question for the DNR,
7 especially. My name is Kathy LeFebre.

8 As I said, we bought this house in 1971. In
9 1973, there was a flood. It was considered a
10 20-year flood and it happened on the weekend of
11 Friday just before Easter and the rest of the
12 city experienced a snowstorm.

13 We had to leave our house. Actually they
14 had to carry us out on their backs because the
15 vehicles flooded out and it came in about two
16 miles into the city, almost two miles and it did
17 a lot of damage.

18 When we got back to the property, it was
19 amazing what the water took. It took about two
20 feet of our land along the water. There was no
21 dike at that time. People had rocks out there.
22 It had moved the rocks. They were over our
23 backyard. There was a big tree in our backyard.
24 One house down a little farther, they had a huge
25 tree that went right through their house, really

1 destroyed their house. It was amazing what
2 happened in this.

3 I was home alone and my husband was at
4 school, and they had announced on the radio they
5 were closing all the bridges because the water
6 in the storms when it comes, it doesn't just
7 wash up onto the land, it went up the river and
8 up the river quite far, closing all the bridges
9 down. So I called and said you've got to let
10 him out, I'm not going to be here alone with a
11 little girl.

12 And what I want to say about this is that
13 this river and the bay can throw some awful,
14 awful storms, the bay can when these winds come
15 in, and we haven't had one of these storms in
16 years. It hasn't happened. So we're just
17 waiting for some big storm to come in. It might
18 not be classified as a 20-year storm.

19 So my question is after we got back, there's
20 all this dry mud on our lawns. We had it,
21 neighbors did. I don't know how far in the
22 sediment was deposited. We are out there with
23 our hands pulling all this dried mud off. This
24 stuff was full of PCBs. We didn't know it. I'm
25 informed that the DNR knew there was PCBs out

1 there. I don't know if the EPA knew. Why
2 weren't you there? Why weren't you there
3 testing it, telling us not to touch it?

4 I've had breast cancer. I'm almost a
5 nine-year survivor. The reason I survived my
6 cancer -- I was one step from being dead -- the
7 reason I survived is because I'm all German.
8 And you can tell a German something but you
9 can't tell them much. We are very tough.

10 But my neighbor wasn't lucky. She died.
11 She had breast cancer, it came back and it
12 killed her. It was awful what she went through.
13 A few houses down, both the daughters in that
14 house had breast cancer. Breast cancer is a
15 big, big issue for us.

16 Why weren't we notified? Could you tell me
17 why you didn't tell us, you didn't come and
18 check it out for us to let us know how hazardous
19 this was, if it was hazardous? We don't know.
20 I had a little daughter. I'm concerned about
21 her now. Is she going to get breast cancer?
22 Because she was around -- she was playing in the
23 stuff. Can you answer that for me, please?

24 MR. HILL: I'm not sure what the
25 question is. You said this was in '73? I think

1 the State of Wisconsin learned about PCBs as
2 being a problem in the Fox River, in the
3 Sheboygan River and Milwaukee River in late '70s
4 when we issued our first consumption advisories.
5 Whether or not we knew whether or not there were
6 PCBs in the bay sediments, I can't tell you
7 because I was still an undergrad in college so I
8 can't be responsive to what was or was not done
9 by the agency before I started working with it.
10 And Jim wasn't working at EPA at that time,
11 either. So I'm afraid I can't be responsive to
12 why we didn't respond to that.

13 I can tell you that the proposed plan is
14 meant to reduce the pathway of PCBs to the
15 citizens of this area from this point forward.
16 And we're looking at doing it in a way that is
17 most -- the most aggressive approach in the
18 country, in a way that we believe can be
19 engineered.

20 Jack, you said -- you referred to your dad a
21 couple of times. My dad was a professional
22 engineer who thought he could design anything.
23 And for Mr. Acker, the idea of trying to tell
24 you right now what the design flow will be,
25 that's a design question. We don't have that

1 answer right now because we're not designing
2 yet. We are looking at the concept of capping
3 in combination with dredging.

4 The design phase is the next step that says
5 if capping is allowed, what is the correct
6 design criteria for designing that cap to
7 consider water flow, ice flows, crop wash and
8 many other factors that can reduce the stability
9 of a cap? Those are all things that would come
10 if we make the modification as proposed in the
11 plan.

12 MS. LEFEBRE: I'd like Becky to
13 answer this.

14 MS. KATERS: I'd like to say in
15 either '71 or '72, the DNR issued a report by a
16 man named Stan Kleinert on the PCB problem, a
17 very formal, lengthy report, so they should have
18 known and they didn't do anything. And
19 unfortunately this happens a lot. The
20 government is very slow to respond to public
21 health risks like that.

22 MS. LEFEBRE: If you knew in the late
23 '70s, why did you put Kidney Island in, put all
24 the PCBs in there? You're not taking care of
25 it, either.

1 MR. HAHNENBERG: I would like to
2 address one question that was raised in terms
3 of -- it may be your exposure to that event. I
4 don't know what your exposure was. I can tell
5 you the risk assessment that we did for the Fox
6 River, for the concentrations from the Fox River
7 that we have seen, the risk assessment tells us
8 that really, the significant risks from PCBs are
9 related to consumption of fish. Direct exposure
10 from mud, that kind of thing, short-term
11 exposure particularly really does not cause a
12 significant risk to an individual. PCBs, the
13 concentrations, using a really high
14 concentration, I don't know. But the
15 concentrations observed in the Fox River, the
16 risk assessment tells us that that really isn't
17 a major concern in terms of what the risks might
18 be to an individual.

19 MS. FRARY: If I can remind people,
20 if we can try to keep it to questions. I know
21 again there is a lot of passion about this
22 issue, but if we can try to limit some of the
23 speeches and try to focus on questions so we can
24 get through as many as possible, that would be
25 great.

1 MR. SAPERSTEIN: I have a series of
2 inter-related questions. Why didn't you know
3 back in about 1954 the paper companies started
4 using PCBs? Why didn't you know that in 1969,
5 the U.S. Navy refused to use PCBs in their
6 submarine fleets because it was considered to be
7 too toxic?

8 Why, you mentioned, didn't you know by 1977,
9 '78, the production of PCBs were banned in the
10 United States? They had been banned in Sweden
11 in about 1970.

12 Why didn't you -- I'm saying you
13 specifically may not have been part of the DNR.
14 You specifically may not have been part of the
15 EPA. But you cannot pretend that the EPA and
16 the DNR were not aware of these things. And
17 they were aware of the fact -- the fact -- that
18 PCBs cause cancer in animals and are regarded by
19 the EPA as a bio-accumulative carcinogenic
20 chemical compound. Why didn't you know that
21 when the lady asked you? And you pretended that
22 you didn't know that.

23 You pretended that you didn't know that
24 there might be somewhere between 600,000 to a
25 million pounds of PCBs potentially in the

1 sediments of the Fox River. And why do you keep
2 telling us that this is the grandest, biggest
3 remediation program that exists when you know in
4 the Hudson River in Region II of the EPA where
5 GE has caused more contamination then any other
6 company -- than any other company -- there is a
7 program that involves only dredging. Why don't
8 you know that and why don't you admit that?

9 And why don't you know that in the Grasse
10 River in New York under the auspices of Region
11 II and a project manager by the name of Young
12 Chang, who I've talked to directly, that capping
13 of the type that you're proposing with porous
14 rock, sand and gravel failed, and it failed
15 after about a year and a half because of ice
16 formation and high velocity underwater
17 turbulence that did, as Dr. Kuhns said, erode
18 margins and sucked the PCBs, sucked the PCBs out
19 from under the rock because of pressure
20 gradience.

21 Why don't you admit these things? There are
22 no successful ice-covered rivers that have been
23 capped and there is no experimental work to
24 prove it. Your models --

25 MS. FRARY: Thank you for your

1 question.

2 MR. SAPERSTEIN: I'd like one last
3 question. How can you say that a model,
4 arithmetical model tells you reality? I'm an
5 engineer. I've worked with models. But one
6 test is worth a thousand expert opinions. So
7 don't tell me that a model tells the whole
8 story. It is impossible unless that model
9 exactly duplicates a real condition, and there
10 has never been a test, to my knowledge, that
11 duplicates the conditions that exist on the Fox
12 River. And I believe that you're misleading the
13 public in proposing capping.

14 So if you can answer those questions, I
15 would be very grateful. My name is Zalman
16 Saperstein, 3155 Gibraltar Road, Fish Creek,
17 Wisconsin. And don't forget the Bay of Green
18 Bay. We have PCBs up there, too.

19 MR. HAHNENBERG: The question about
20 the history of the agency's understanding of
21 PCBs, I can't answer that. I wasn't around.
22 Well, I was around but I was like in high
23 school, but I mean, I don't know what happened
24 then with the agencies specifically.

25 On the history of the PCBs, I do know that

1 PCBs were banned in the '70s by EPA, and as time
2 went on, it became more and more -- people
3 became more and more aware of it as an issue and
4 as a concern. Earlier on it was a gradual
5 awakening of that concern, so in detail I can't
6 answer all those questions in terms of history.

7 I can answer some questions on the Hudson
8 River. We do know it is a large dredging
9 project. We do know they are removing a large
10 quantity of PCBs there as planned. It hasn't
11 been done yet, but we're aware of that and we
12 have considered that and what we're planning --
13 we will have discussions with people on those
14 projects as well, so we are aware of that.
15 That's an option for remedy. That is a large
16 portion of what the proposed plan is for this as
17 well. A large portion of it is dredging.

18 The Grasse River, I'm familiar with that
19 project a little bit. I'm aware that it was
20 capped. That is one of the projects that we
21 were thinking about and we were planning on
22 getting more information on.

23 But I'm aware of a problem they did have on
24 the one cap they put in there where there was
25 ice scour -- not ice scour directly but also

1 actually scour from the water flow under the
2 cap, under the ice, so it did damage the cap
3 there. And that was a matter of the issue of
4 ice scour, potentially things relating to ice
5 scour.

6 We did look that in the Fox as part of our
7 development of the proposed plan. In that
8 development, we had an ice scour. We looked at
9 the Fox River specifically to make a
10 determination.

11 The guy who actually studied the Grasse
12 River project on that issue, he did look at this
13 and he did look at the history. He looked at
14 the different features along the river that
15 would indicate whether we might have potential
16 for ice scour, ice damage to a cap.

17 Conclusions from his evaluation was, for
18 most areas of the Fox River, that isn't a major
19 concern. It's a different kind of river and
20 given the physical conditions and
21 characteristics of the Fox River, it was not
22 thought to be a major concern except there was
23 another type of ice which does have potential to
24 form in certain portions of the Fox River,
25 particularly below dams where we have turbulent

1 waters. Those were areas where we will not be
2 capping. We will be dredging because of the
3 potential for ice damage from frazzulence.

4 So in terms of the modeling that has been
5 done, these models have been calibrated by
6 modelers. That means they look at different
7 laboratory results and results, other projects.
8 They have looked at the -- tried to relate to
9 the physical reality of what can happen to
10 sediment related to a cap which is sediment
11 movement from ice flow or water flow, so they
12 have looked at that issue but just factored in
13 the development of models, so that is looked at.

14 MR. SAPERSTEIN: I don't know, when
15 you say "they", if anybody --

16 MR. HAHNENBERG: The model --

17 MR. SAPERSTEIN: In response to what
18 you just told me, I would like to ask another
19 question because it's only fair to do that.

20 MS. FRARY: There are a lot of people
21 who have questions.

22 MR. SAPERSTEIN: Please, I've got to,
23 because he said something that conflicts with an
24 EPA report that was issued about a year ago. He
25 is misleading us.

1 MS. FRARY: If you would like to
2 write down a question, we will be happy to have
3 him answer.

4 MR. SAPERSTEIN: He is misleading the
5 whole audience by his answer and I would suggest
6 that you read and ask you to read a document
7 that was published by the EPA in December 2005.
8 It is entitled, "Contaminated Sediment
9 Remediation Guidance for Hazardous Waste Sites,"
10 and in Section 3.1.3, it is entitled, "In-situ
11 Treatment and Other Innovative Alternatives,"
12 and in that paragraph in December 2005 prepared
13 by the EPA, it simply says --

14 MS. FRARY: Sir, you --

15 MR. SAPERSTEIN: -- that you cannot
16 use capping and they don't recommend it. Read
17 that paragraph.

18 MS. FRARY: Sir --

19 MR. SAPERSTEIN: Read that paragraph
20 and tell these people that they are misleading
21 us.

22 MS. FRARY: Sir, we have other people
23 that would like to speak. Thank you very much.
24 Again, let's try to keep our questions really
25 focused here. There is a lot of people that

1 have some questions, and we want to get through
2 as many as possible. Go ahead.

3 MR. STROMBORG: I'll try and keep it
4 to a couple of questions. Ken Stromborg,
5 S-t-r-o-m-b-o-r-g, and I'm a citizen of Brown
6 County. And I want it clearly understood that
7 what I say is my personal opinion and in no way
8 reflects the position of any organization or
9 agency with which I may be affiliated.

10 I've been editing my question as we hear
11 things happening here, and I think really
12 fundamentally it has to do with this issue of
13 permanence where it sounds to me like we're
14 redefining the word. "Permanent" means
15 something to me, and now I hear that
16 "permanence" is relative, so since we are
17 talking about a brand new strategy here, one
18 that I think I can only call the Chernobyl
19 Strategy. You're going to create a sarcophagus
20 in the river or a multitude of them; sarcophagi,
21 I suppose.

22 Would you please address three inter-related
23 questions? First of all, tell me where in human
24 history human beings have piled up sand, gravel
25 and rock in a high energy environment like a

1 river bed or wave action environment and had
2 those piles of rock resist the erosive forces
3 for hundreds or thousands of years? I could
4 think of on land situations, the pyramids and
5 things like that, but I can't think of a
6 situation in an aquatic water environment. So
7 that's question number one.

8 Question number two has to do with how
9 you're going to detect failure of this cap? We
10 have heard almost nothing about even a plan for
11 monitoring and keeping track of this stuff
12 either in the bay or related to the cap itself.
13 And I'd like you to address what plans are
14 underway to keep track of the integrity of the
15 cap.

16 And then finally, what institutional and
17 financial arrangements are going to be written
18 into this plan to fix the problems that will
19 occur?

20 And I have in mind particularly something
21 that hasn't been addressed yet and that is the
22 probable decrease in lake levels of five to ten
23 feet. I don't think that's an "if." That's a
24 "when." I've seen lake levels go down five feet
25 in the last ten years. Global climate models

1 say it's very likely to happen again. When you
2 decrease lake levels, you're forcing the river
3 to flow through that dredged channel that exists
4 now where your sarcophagus is going to be.

5 In effect, you've created a hydraulic mining
6 machine. As I recall -- and Dr. Kuhns could
7 probably speak to this -- the force and erosive
8 capacity goes to the 6th power of velocity. If
9 you force that river into that narrow channel,
10 it's going to erode. And what I'd like to know,
11 how are you going to detect it and how are you
12 going to pay for fixing it? And who is actually
13 going to do that? Because I really don't want
14 my grandchildren to inherit more financial
15 responsibilities on top of what you're piling
16 on.

17 MR. HILL: All good questions, Ken.
18 The first question about where has it been
19 successfully done where man has armored a
20 flowing river system, we'll look, like we said,
21 at rivers that have had remediation projects.

22 The thing that comes to mind is based on
23 some of the new information we got during the
24 previous sampling where we found that
25 immediately below the De Pere dam, which I think

1 most people would agree is a pretty erosive
2 environment, following the last dredging of the
3 navigation channel 35 or 40 years ago, there are
4 deposits of PCBs that have been covered with six
5 or more feet of cleaner material. Which to my
6 mind -- and Dr. Kuhns, you can speak to this,
7 too, I'm sure -- Mother Nature has capped those
8 to the level that over the last 35 years, they
9 have been buried and separated from the aquatic
10 environment. It's that kind of data that would
11 lead us to believe that we can engineer a cap
12 and design a cap that is protective in this
13 environment.

14 And the question of whether or not it will
15 be protective into the future gets to be how are
16 you going to monitor it? And the level of
17 monitoring that will be required will be
18 directly related to the assurance that the cap
19 is structurally protective and installed to a
20 point where, you know, it will be based on the
21 level of confidence we have in the stability of
22 the cap.

23 And as far as the long-term commitment or
24 capability of monitoring and paying for either
25 monitoring or repair, that's a provision that

1 will be included in total cost estimates. It
2 was estimated as part of the BODR. That was the
3 basis for the proposed plan. But it will be a
4 commitment by the responsible parties to provide
5 the funds for the long-term monitoring and
6 maintenance.

7 And again, the amount of money that will be
8 required will be directly related to the
9 conservativeness of the design and the ability
10 to construct according to that design.

11 MS. FRARY: Jim, do you want to talk
12 little bit about how they're going to be
13 monitored?

14 MR. HAHNENBERG: Sure. Well, I'll
15 let Roger.

16 MR. KUHNS: Greg's comments about the
17 dam example which is what happens when water
18 goes over a dam, it can scour. Basically a
19 scour hole is a fungible-type thing. You can
20 put a lot of sediment in these things and they
21 can be buried by another storm.

22 The thing to remember about a river is that
23 when you deposit sediment in a place where there
24 wasn't sediment, that means that the sediment
25 that was there before there was a void was

1 moved. Does that make sense? Because it's
2 dynamic. A plunge pool after a dam is a very
3 specific engineering situation and it's usually
4 one engineers try to avoid because it undercuts
5 and under-erodes dams.

6 If you go to any of the large dam projects,
7 you can see they take extraordinary care, spend
8 huge amounts of funds and have poured tons of
9 concrete to protect these areas.

10 What we are learning in ecology in the last
11 10 to 15 years is that there is a lot better
12 ways to manage stream restorations, for
13 instance, than engineering it with rocks and
14 concrete.

15 So one of my concerns is that if we think we
16 can engineer this in a river that we don't fully
17 understand, my experience is that everywhere
18 without exception -- and the gentleman who asked
19 can you show me a river where we have got a cap
20 that has stood the test of time -- there isn't
21 one by the way, that I know of.

22 If we try -- if we think we can engineer
23 this thing, in every example that I know of,
24 there has been indications of failure or
25 failure. And we have of course seen this on a

1 massive scale in places along the Mississippi
2 River floods, breaking the levy, and these are
3 sometimes dual levy systems that have failed and
4 also levy systems like Katrina, things like that
5 in New Orleans, so sometimes we just don't
6 anticipate that when a series of things occur
7 together in nature, they give us extraordinary
8 events and this is the concern here, which is
9 why in my opinion, capping is not a viable
10 solution because we can never fully understand
11 what this river is going to give us.

12 And because of that, we can't say anything
13 is permanent. And because we can't say anything
14 is permanent then we shouldn't do it. We should
15 get them out, have got to get the stuff out --
16 plain English -- and remediate it in a
17 non-aquatic environment so it's remediated, not
18 packed away, and that's a difficult thing to pay
19 for and to actually achieve.

20 But it's the only way, in terms of my
21 experience as a geologist, hydrologist and
22 ecologist, that's the only way to fix this, and
23 I wish it was not a billion dollars and half a
24 billion dollars price tag, but the fact is, it's
25 there. We have got to fix it. So the science

1 behind this is really important, and if a
2 scientist goes forward with a decision when he
3 or she knows that one of the answers was "I have
4 a great uncertainty," then that person has left
5 the scientific principles behind and gone to
6 opinion and desire, so we have to really be
7 careful with this, guys. We don't know what
8 this river is going to do.

9 MR. HAHNENBERG: Just real briefly on
10 how the cap is going to be monitored. The
11 details are still being developed. I assume
12 going forward, that would be determined in the
13 final plan.

14 What that would be, the cores would be taken
15 in the cap to make sure we see the cap still
16 being there. There would be some chemical
17 analyses in the cores to make sure PCBs or
18 chemicals weren't migrating through the cap.

19 There might be similar-type surveys to
20 determine that, other ways to determine the cap
21 is present. That would be done on a regular
22 basis as part of the Superfund process whereby
23 we have, at a minimum, five-year reviews to make
24 sure the remedy is continuing to be protective,
25 so this is part of the Superfund process to make

1 sure when contaminants are left behind that we
2 monitor that and we report on that and evaluate
3 that to make sure that remedy has maintained its
4 protectiveness.

5 MS. FRARY: Your name and your
6 question, please?

7 MR. THOMPSON: My name is Dave
8 Thompson. And my question is, what is the ratio
9 of funds budgeted for research on removing
10 sediments from PCBs versus the cost of
11 remediation and how many of these are
12 accessible? I'm a professor at Lawrence
13 University. I'm interested in how much of these
14 funds are accessible for people like myself for
15 competitive grant writing and where would one go
16 to if one wanted to do that?

17 MR. HAHNENBERG: I'm not sure
18 offhand, but I can check on that for you. Let
19 me get your name, e-mail. I'll let you know.

20 MR. THOMPSON: Thank you.

21 MS. SCHABER: My name is Penny
22 Bernard Schaber. I've been involved in this
23 process for 21 years like Becky has been
24 involved. I'm been part of the Fox Valley
25 Sierra Club as one of their representatives to

1 discuss this concern. And I hear that there was
2 not a decision made but I feel that the decision
3 had been made and that my voice has been
4 ignored.

5 One of my questions is health concerns
6 should be number one. Beyond cancer risks, we
7 have fertility, genetic and developmental
8 concerns, also. Have health studies been done?
9 Have epidemiological studies been done in this
10 area? If so, where are the results and what
11 have they shown us?

12 My other question is given the answers that
13 I heard today, will we have those same answers
14 in 50 years like, "I was not here. I did not
15 know. I didn't do the project, so I have no
16 responsibility"?

17 MR. HAHNENBERG: I can't speak for
18 people from 50 years ago, but speaking for
19 myself now, I can tell you that we do take
20 responsibility for a decision, whatever it is,
21 that we are making. And by the way, I'm not the
22 one to make that decision but I certainly have
23 input into it. It's the EPA management that
24 would ultimately make that decision.

25 As to the health studies, the health studies

1 that have been done, I don't believe that's been
2 done as part of this process. There may be some
3 out there but it is typically done with
4 Superfund projects. It can be done. Usually
5 it's sort of a general population study. They
6 don't go in, do specific like research kind of
7 things. It is often done, but as far as I know,
8 it hasn't been done. Yeah, as part of the
9 baseline risk assessment that is looked at,
10 certainly, and the research is looked at. That
11 would be encompassed in that assessment, but not
12 a particular specific study in terms of being
13 tasked as sort of a major epidemiological study
14 for the Fox.

15 MR. ABBOTT: I'm Lynn Abbott from
16 Green Bay. Relating to Ken's questions, is
17 there a specific "Plan B" in case there are
18 problems with the caps? I mean, are you going
19 to remove the cap and dredge or are you going to
20 add more cap or whatever? And who is going to
21 pay for it? And would there be an escrow set up
22 in case the company no longer exists or gets
23 merged or whatever?

24 MR. HILL: Let me answer in a reverse
25 way. Yes, there would be a long-term funding

1 provided for both monitoring and maintenance,
2 and under Superfund there is a five-year review
3 of the effectiveness of the remedy. If it was
4 found that the cap is eroded, the plan, the
5 proposed plan, is that it would be evaluated to
6 determine whether or not the cap could be
7 repaired, if it would need to be reinforced, or
8 if it needed to be removed and dredging was the
9 right thing because it wasn't engineered in the
10 first place -- correctly in the first place.

11 MS. KATERS: Officially in the plan,
12 isn't it only 40 years of actual funding?

13 MR. HAHNENBERG: Cost estimates
14 actually, I believe, consider a hundred year's
15 funding, but that's kind of secondary in a way
16 because the liability doesn't end, even if you
17 make a particular cost estimate. It doesn't
18 pertain to the actual responsibility. That goes
19 on as long as, for the potentially responsible
20 parties, it goes on as long as contamination
21 remains.

22 MS. KATERS: What about if the
23 companies cash out?

24 MR. HAHNENBERG: That's a
25 hypothetical, but normally in those kind of

1 cash-outs, there is a major premium that would
2 be involved. In other words, there would be an
3 extra offer built into kind of a settlement,
4 that they wouldn't cash out just the amount of
5 the cost estimates. There would be an
6 additional premium. Normally for those kind of
7 settlements usually that is what happens.

8 There is an additional premium that is
9 included in that kind of settlement, but I mean,
10 that's all hypothetical. That might or might be
11 not happening.

12 MR. STIEFVATER: My name is Mike
13 Stiefvater. It's S-t-i-e-f-v-a-t-e-r. I'm a
14 registered professional engineer. Because I'm
15 registered, I'm not allowed to mess with
16 technology that I'm not competent in. This is
17 technology that I'm absolutely not competent in.

18 I am familiar with weighing options. And
19 the two options or the spectrum of options, on
20 one end of the spectrum you have -- all the
21 options are trial and error. Engineers,
22 scientists don't like to hear that phrase,
23 "trial and error." But taken at every one of
24 our options is trial and error. Do you choose
25 the high risk one/low cost? Or do you choose

1 the low risk/high cost? It's up to us.

2 MR. ROSE: Tim Rose. I happen to
3 live in Appleton. I'm a health care
4 professional. I guess I'm a little concerned
5 that there hasn't been an EPA study done or you
6 haven't gone to CDC or somebody to get the
7 answers as to what the health implications might
8 be in this part of the world.

9 Really what I want to direct my question
10 to -- I'm not speaking for a group although I'm
11 involved with a group -- and that's basically
12 reopening the locks. It came to our attention
13 in a rather short period of time that this
14 capping was going to basically change the depth
15 of the river. And I guess I would like to get
16 it from the horse's mouth. What will the depth
17 of the river be if it's capped?

18 MR. HILL: The capping would not be
19 able to reduce the depth of water from that
20 which is formally designated under the Water
21 Resources Development Act.

22 MR. ROSE: Which is?

23 MR. HILL: Which right now,
24 Congressman, you know the numbers better than I
25 do.

1 MS. FRARY: It's 18 feet right now.

2 MR. HILL: 18 feet right now. The
3 Senate version of the reauthorization of the
4 WRDA Bill would reduce it to six. There is no
5 authorized reauthorization depth in the house
6 version of the WRDA Reauthorization Bill.

7 MR. ROSE: But is the change in the
8 depth associated with the activity that you want
9 to pursue in the river?

10 MR. HILL: It's independent of any
11 decision. If the capping was to be done, it
12 could not be countered to the federally
13 authorized --

14 MR. ROSE: That's not what I'm asking
15 you. If the depth of the river today is 18
16 feet -- that's the law -- assuming the law is
17 not changed and 18 feet stays the mandated
18 depth, would the procedures you're going to do
19 in the river change that depth?

20 MR. HILL: No.

21 MR. ROSE: Not at all?

22 MR. HILL: No. It couldn't be
23 designed or implemented to reduce the federally
24 authorized channel depth.

25 MR. ROSE: Just a comment to you as a

1 representative of the DNR. I have some real
2 difficulty with the fact that a lot of these
3 things haven't been communicated, at least to
4 the level that I'm involved, by the DNR who have
5 a representative on the Fox River Valley
6 Authority about all these changes that were
7 anticipated. These things just came to the
8 fore. Probably part of the reason is a lot of
9 times your representative doesn't show up at the
10 meetings.

11 MR. HILL: I'll note that. Thanks.

12 MR. ABITZ: My name is Steve Abitz.
13 I've been a De Pere resident for 25 years now.

14 You know, I have got some specific questions
15 but I have a general question, and my general
16 question is why should we have any confidence in
17 the EPA and DNR on this voluntary approach
18 business? I can tell you that I was working as
19 a forester for the paper industry in Wisconsin
20 for 15 years. And we used the voluntary
21 approach when we tried to manage forests in the
22 State of Wisconsin in terms of quality. There
23 were a lot of hardwood quality issues. And I
24 can just say that the voluntary approach, in my
25 estimation, never worked there and it certainly

1 hasn't worked in the fisheries in the Grand
2 Banks on the East Coast and so I don't know why
3 it should work here.

4 And I realize it's a rhetorical question but
5 I just have an article that appeared in the
6 Post-Crescent. The author was Doug Dougall,
7 former chief executive of Integrated Paper
8 Services, Incorporated, and the last paragraph
9 says, "I question the expenditure of more than
10 \$500 million to remove PCBs from the Fox River
11 by dredging. Cap it and let nature and aerobic
12 digestion take its course." So why should we
13 have any confidence? Thank you.

14 MR. HILL: Could I ask you a
15 question? I'm not sure what voluntary -- I
16 think that was the word you used -- approach?

17 MR. ABITZ: Your whole approach has
18 been voluntary from day one, voluntary meaning
19 that you're going to represent the citizens and
20 the paper industry, the people who are
21 responsible for the problem, and they're going
22 to come together. We are going to come together
23 and we are going to make a voluntary approach.
24 There is going to be no teeth in anything. It's
25 just we are going to all come to some nice

1 agreement.

2 That's been going on for two decades. I'm
3 just wondering if it hasn't -- you know, we had
4 a Record of Decision in 2002, and now it seems
5 we are revisiting it again. I'm just saying it
6 doesn't seem like the voluntary approach works.
7 It's a rhetorical question. I don't think you
8 can really answer it. Can you?

9 MR. HILL: Let me try because I think
10 it's a misrepresentation of the approach that's
11 being used. We are following the circle of
12 rules that Superfund is operated under.
13 Superfund is an enforcement program.

14 We are following those rules for a couple
15 reasons. One is it lays a logical approach for
16 assessment and determination of what a best
17 environmental solution is. By following the
18 approach also it means that we can move to a
19 direct enforcement if a negotiated achievement
20 of that plan cannot be done. So if -- no matter
21 what the final remedy is, if the companies do
22 not pick up the plan and implement it, the
23 federal and state government can institute an
24 order which is not voluntary. It's an order
25 against the companies to implement the plan.

1 There is nothing voluntary about this approach.

2 There is a cooperative assessment of what is
3 out there that we agreed to under a consent
4 decree approved by a federal judge, but again,
5 it is not voluntary. It's made in a way which
6 we can expedite the process to get to
7 implementation.

8 MS. KATERS: When I spoke of the
9 voluntary cooperative approach, what I was
10 speaking of is this closed-door negotiation that
11 has extended for ten years now since Superfund
12 was first suggested in the Fox River in 1997.

13 We have had ten years of negotiation, trying
14 to find voluntary cooperation from industry.
15 And there's been no indication of simply taking
16 it to court and enforcing the clean-up for 20
17 years, for 35 years since this problem was first
18 described and talked about by the DNR, 35 years
19 of not responding to a clear public health
20 threat. The fish advisories were issued in
21 1976. It's been long time of negotiations.

22 MR. SELESKIE: My name is Mike
23 Seleskie. I'm the president of the University
24 of Wisconsin-Green Bay Student Government
25 Association, Student Body President. I would

1 like to say I've had the great fortune to live
2 by three fantastic rivers in my life. I grew up
3 on the Mississippi River. I lived on the Hudson
4 River as West Point cadet. Now I live on the
5 Fox River, going to the University of Wisconsin
6 Green Bay.

7 I know college students sometimes have the
8 reputation of maybe oversimplifying things and
9 living in a fanciful world. I would like to
10 transport the entire audience to a fanciful
11 world for a second. If there was nothing to do
12 with money, no issue about how expensive things
13 were going to be, what's, in a one-word answer,
14 what's the most effective way to clean up the
15 river? Plain blank, nothing -- what's going to
16 help clean it up the quickest, the best?

17 MR. KUHNS: I'll answer it. It's
18 remove the PCB's. It's the word "remove."

19 (Applause)

20 Clapping is great, but the thing is, you've
21 got a lot of people that are actually -- these
22 guys are really working hard trying to solve
23 some unbelievably daunting problems. And so I
24 do want to thank you guys for doing that.

25 But I want to mention something that kind of

1 goes with what you're saying. What would you
2 do? Once you put them into a landfill, somebody
3 is going to say that's not permanent, either.

4 You're right. In fact, one of the landfills
5 that my company is working on is Fresh Kills
6 Landfill in New York, okay. That's one of the
7 largest landfills in the country. And that's
8 where they put the 9/11 debris, opened it up,
9 put it back in there. This is a mess. I mean,
10 you can't believe the stuff that's oozing out of
11 this thing.

12 PCBs are tough buggers. We can look at them
13 in terms of a number of different ways to get
14 rid of them and you've got to break them
15 chemically down. And where is the Lawrence
16 University professor? Is he up there? Get a
17 bunch of students together, bunch of money,
18 solve some of these problems.

19 But there is a lot of people working on this
20 stuff. My company has got some knowledge of it
21 but we are not a research firm that does this
22 kind of research. It's very expensive and
23 tough, but some of the things you can do is you
24 can subject these things to strong oxidative
25 reaction. That's rusting, basically, for steel

1 or something like that. But if you can break
2 down the bounds between these things, then they
3 start to become less harmful.

4 There is things called mobility limiters.
5 There is a thing called activated charcoal.
6 It's a clipped piece of organic matter like a
7 coconut shell or something like that. When you
8 do that, it creates millions of little tiny
9 holes in it and you increase the surface area in
10 many orders of magnitude and things can get
11 locked into these things and they can, in
12 essence, take it out of circulation.

13 There is bioremediation that Jim mentioned,
14 which is a bacterial decomposition. Bacteria
15 can do amazing things. There's
16 phytoremediation, vegetation associated with
17 microorganisms and enzymes and how they consume
18 water to catch and start breaking these things
19 down. Photo remediation is subject to things
20 that break down in sunlight. There's thermal
21 remediation which is in your report, which is
22 expensive but you're basically going to make the
23 sand that has the stuff that PCBs adhere to in a
24 glass, okay. It's going to last a long time.
25 So there is a lot of things you can look at.

1 One thing -- and you as a professor would
2 know this -- one thing that happens in science
3 is just when you think there is no new ideas,
4 some guy will come up with an idea that's
5 just -- wow, that's amazing, you know. And we
6 see this every day in environmental sciences.
7 Every day somebody is figuring out, you know, we
8 didn't know that last year and we can do that
9 now.

10 So I would urge you to urge everyone -- I
11 urge you guys to really consider it instead of
12 capping; getting the stuff out of the river.
13 It's more expensive but you'll be heroes.
14 You'll also be able to apply it to a lot of
15 different places. It's a cool thing to do.

16 CONGRESSMAN KAGEN: I do have to run,
17 but I'd like you to continue asking questions.
18 And I cannot thank the panelists enough. I'd
19 like to give you a round of applause for being
20 here. (Applause).

21 It is another nice day in Wisconsin
22 to have to come inside the first day of fishing.

23 Really, the health of our river will
24 determine both human health and also the health
25 of our local economy. And you cannot separate

1 the health of our river from our human health.
2 We are, after all, tied to our environment in
3 many, many different ways. I'm absolutely
4 convinced that by working together, this panel,
5 our community and our universities will find
6 better ways of solving these very complex
7 problems and I want to thank you, and I
8 apologize for leaving early.

9 Now, about the written record, once it's
10 compiled and all of your questions have been
11 answered -- and if time does not allow today,
12 submit them in writing -- each of the panelists
13 have agreed to write their answers. We have
14 agreed to put it on our Congressional site, make
15 it available for everyone.

16 Thank you for being here, your attention to
17 helping us to make this the greatest place in
18 America to live. Thank you Jim, Greg, Roger,
19 Rebecca. Thank you very much.

20 MR. APPEL: My name is Bill Appel.
21 My wife Kathy and I live in the area here in
22 Green Bay that, as Dr. Kagen told us all today,
23 is a hot spot for breast cancer and that
24 distressing, alarming fact we did not learn this
25 afternoon from Dr. Kagen. It was kind of

1 whispered to us by health care providers some
2 time ago, almost like, "Shusssh, don't tell
3 anybody." But I suppose that has more to do
4 than with just the water that goes by our place
5 where we reside; the air we breathe, too.

6 I am hoping you all recognize the
7 extraordinary act of political leadership and
8 courage it is for Dr. Kagen to reopen this
9 question that seemed to be cooked and settled.
10 And I hope you all understand there is going to
11 be massive financial political muscles used
12 against it. Thank you.

13 And Senator Cowles is here. He's been a
14 long and hard worker for environmental issues in
15 our state legislature and I hope you all
16 appreciate that.

17 My question has to do with Superfund. Maybe
18 direct it to Dr. Kuhns. It's a simple question,
19 and something Mr. Hill said earlier made
20 me question the facts, but my understanding this
21 is not a Superfund project. My question is,
22 from your experience worldwide is the problem
23 presented here in the Fox River of sufficient
24 magnitude to be justified a Superfund project,
25 and if it is, what can we as citizens do to

1 encourage those in local government, state
2 government and federal government to ask for
3 Superfund status? And I understand if the money
4 comes, it gets done faster. Am I wrong about
5 that?

6 MR. KUHNS: Technically is this a
7 Superfund site? Well, I think we have a kind of
8 a Superfund situation and I think we start
9 splitting hairs if you're not going to call it a
10 Superfund site.

11 There are a lot of Superfund sites that were
12 defined in a variety of categories, and this
13 one, in essence, has been known for so long, I
14 think a lot of the political engines that see
15 this kind of got used to it.

16 When Dr. Kagen was running for Congress and
17 all the other people he was running against, I
18 went around to every single candidate that was
19 running for Republican or Democrat, Independent,
20 Green Party that was running for Congress, and I
21 gave them the same 45-minute presentation, what
22 I saw was environmental challenges in Wisconsin,
23 okay.

24 Dr. Kagen and two of the other candidates
25 that obviously didn't win, out of the nine I

1 talked to, only three listened and responded,
2 okay. That tells you something about the
3 awareness, the interest, and the doability of
4 some of these projects.

5 So yes, this is a Superfund site. Is it
6 technically a Superfund site? Not technically,
7 but maybe you can comment on that Greg, or Jim.
8 But to me, we have got decades of situations.
9 We have a continuing health concern that is not
10 yet fixed. So this is as serious as some of the
11 other stuff we see in our environment.

12 MR. HILL: It's not a Superfund site.
13 It has all the characteristics of a Superfund
14 site. It was nominated to be a Superfund site
15 and it's probably one letter away from being
16 designated as a National Priority List site
17 which is what actually -- when you talk about
18 Superfund sites, it has to be listed on the
19 National Priority List.

20 I think you may be wrong in your assumption
21 that designating this formally as an NPL site
22 would create any benefit. The theory behind
23 Superfund was that there was actually a fund
24 with dollars in it, that if it was a Superfund
25 site and if there was not cooperation and

1 movement, DNR and EPA could issue an order
2 against the companies to clean up the site. If
3 after years of litigation or negotiation they
4 did not accept the responsibility, and if there
5 were funds in the Superfund, EPA and DNR could
6 institute the clean-up action on their own.

7 The benefit the legislation provides is that
8 if the government would start to use Superfund,
9 then the companies would have to pay triplicate
10 damages or triplicate costs. If you listen to
11 what I just said, there are about three "if's",
12 none of which are real. There is no benefit to
13 designating this as a Superfund site from the
14 standpoint of trying to move this thing more
15 quickly because there are no funds sufficient to
16 start implementing the clean-up plan.

17 MS. KATERS: The reason there are no
18 funds is because in '94 and '95, Republicans in
19 Congress eliminated the surcharge that had
20 created the fund. There used to be a surcharge
21 on all chemical and oil feedstocks in this
22 country. And that's where the fund came from.
23 There were billions of dollars in that fund and
24 it was used for hazardous waste clean-ups all
25 over the country.

1 They eliminated it so the fund gradually
2 diminished, didn't get replenished until in
3 2003, the program went bankrupt. So now, all
4 the Superfund projects you hear about going on
5 now are funded by taxpayers.

6 We need to get back to that surcharge so
7 that we have a back-up funding of money to pay
8 for Superfund clean-up in this country, paid for
9 by those who create hazards.

10 MR. HAHNENBERG: In clarification
11 here, if there is not an agreement with
12 companies who are considered responsible, then
13 what's left of the Superfund will pay for it but
14 most projects in Superfund are done and paid for
15 by responsible parties. That's normally the
16 case.

17 In general, EPA makes an effort to have an
18 agreement with the company for them to do it on
19 a cooperative basis, not voluntarily exactly
20 because there is an unspoken threat that if you
21 don't agree, then we have other enforcement
22 abilities. What EPA does normally at a
23 Superfund site, if there are viable companies
24 who are responsible we would have an agreement
25 with them to do the work. That almost always

1 happens and rarely do we end up in court because
2 generally, the companies see that it's an
3 advantage for them to do it cooperatively, in a
4 agreed process rather than face potential
5 litigation in court, much larger, much more
6 substantial actually financial liability,
7 considering the penalties, all that kind of
8 thing.

9 MR. BRAULT: My name is Jess Brault.
10 I'm a resident of De Pere. We live on the river
11 actually where they're doing the dredging right
12 now, but my question is a simple one. Who, in
13 reality, decides whether this river is going to
14 be dredged or capped?

15 And secondly, is there a list of names or
16 people that can be contacted formally to protest
17 and, you know, give our opinions to? Thank you.

18 MR. HILL: The original Record of
19 Decision which is the document that is the
20 decision document on what is done, the original
21 Record of Decision was signed jointly by Bruce
22 Baker, Deputy Water Director for the Department
23 of National Resources, and Rick Carl, Superfund
24 Director for Region 5. Those ultimately are the
25 two gentlemen who will be signing whatever

1 amended law there is, if there is one.

2 And as far as who to contact, the formal
3 comment period on the proposed plan is closed.
4 You can send comments to Jim or I, and we can
5 provide you e-mail addresses if you want them.
6 And as long as the decision is still being made,
7 we will review the comments and if they are
8 different from previously submitted comments, as
9 long as we can fit them into the process -- we
10 want to get this decision made because that
11 decision will drive the final development of the
12 plan which will lead to an implementation.

13 We think that's important. We want to get
14 there, not just the Phase I activity that's
15 being done this year, but we would like dredging
16 to continue in 2008 and remediation on for the
17 next 5, 10, 15 years, whatever it takes.
18 Waiting to make a decision isn't going to help
19 keep the remediation going on.

20 MS. KATERS: In answer to your
21 question, I believe the true responsibility lies
22 with Governor Doyle because the DNR is a cabinet
23 agency. Bruce Baker works for Governor Doyle,
24 and this is a highly political issue. It's not
25 a technical issue. It's not based on the

1 science. This is based on industry trying to
2 get the least cost method. It's been
3 politicized from day one. So Governor Doyle is
4 key. Of course George W. Bush is also
5 responsible at the federal level. Good luck
6 there.

7 But political leaders, they're the ones that
8 you need to hold accountable. These guys are on
9 the ground doing the dirty work, but it's the
10 politicians that have allowed this to drag on
11 like this. We need to hold our elected
12 officials accountable and make them basically
13 get on with this.

14 MR. WOZNIAK: My name is Paul
15 Wozniak, W-o-z-n-i-a-k, 215 South Superior, De
16 Pere.

17 I speak today on the question of obstruction
18 of evidence and protection of evidence. I'm an
19 environmental historian on the Fox River and
20 other parts of Wisconsin's environment. As a
21 statistician, we try to weed through evidence so
22 that people can learn over the long period what
23 they have done right or wrong.

24 I received a notice from a colleague in the
25 American Society from Environmental History just

1 yesterday expressing concern for the destruction
2 of the federal records going on right now,
3 according to this claim, in the enforcement and
4 compliance sections of the EPA. It's reported
5 that delegates, whatever, of the Bush
6 Administration are destroying libraries of
7 information which are irreplaceable, being done
8 over the objection of attorneys at the
9 enforcement area as I read this report and
10 without any scientific review.

11 Now, I believe -- I'm not saying yes or no
12 to capping or dredging, whatever. But I'm
13 saying nobody can make the decision and society
14 cannot be protected in the future if the
15 evidentiary record is destroyed or corrupted.

16 I would like to ask Congressman Kagen or
17 Senator Cowles that an archive be created of
18 historical records so they're not destroyed by
19 benign neglect or deliberate destruction,
20 whether these be government agency e-mails,
21 correspondence, even corporate e-mails. And I
22 don't believe -- inform me if such an archive
23 does exist. Inform me if the records are
24 protected for the future. I don't expect you to
25 have that answer, but on that record that

1 Congressman Kagen mentioned, I would like to see
2 some response to that.

3 MR. POWELL: My name is Keith Powell.
4 I've lived for five years in Appleton. My
5 background overlooks the Fox River, between
6 Locks 1 and 2. I've a hydrology question. If
7 we remove these presumably millions of cubic
8 yards of material from the river, what effect
9 will it have on the Fox River water level and
10 Lake Winnebago also? Thank you.

11 MR. HILL: I have not seen the
12 specific math of volumes and positions, so a lot
13 of sediment will move in to fill places that
14 have been left as holes, for instance, as a
15 natural process and at a natural rate.

16 In general, the biggest concern about
17 dredging is the destruction of habitats. You
18 have the channel bottom habitat, you have the
19 in-sediment habitat of the invertebrates, things
20 like that. Then you have the shoreline
21 habitats, the slough caves are affected by this,
22 so we have talked about this in terms of other
23 spheres, and I know you guys have talked about
24 this.

25 So the volume of sediment we are talking

1 about taking off the river that has PCBs in it
2 is small in comparison to the entire volume of
3 the sediment that's transported by the river.
4 You will see some ancillary erosional effects;
5 changing habitats, destruction of habitats. And
6 there you are, stuck with the decision: Do you
7 destroy that habitat or do you put up with
8 what's there?

9 In this case, you've got to take the stuff
10 out. You've got to destroy that habitat and if
11 you can remediate it and rebuild that habitat or
12 let it replace itself, those are decisions that
13 would come later or would be part of this whole
14 thing, so that's kind of my take on that.

15 I'm more concerned about the presence of the
16 PCBs than what the look of the channel bottom
17 might be as the sediment moves around.

18 MR. HAHNENBERG: Just one quick
19 comment is that the overall net effect for the
20 project would be actually deepening overall, on
21 average, because there would be more material
22 removed from dredging than replaced from
23 capping.

24 UNIDENTIFIED SPEAKER: My name is
25 (inaudible) and I'm a student at Lawrence

1 University. I was wondering about is it more
2 expensive to do all the dredging right now or
3 would it be more expensive in the long run if we
4 dispense with all future costs of keeping up
5 with the capping? How do we assume what the
6 maintenance of capping is? Because it seems to
7 me there is a lot of uncertainty there but if we
8 were to sum all those future costs, maybe it's
9 more expensive, dredging. I don't know.

10 MR. HAHNENBERG: The cost estimates
11 indicate even with monitoring and maintenance,
12 capping is the lower cost. If it goes on a
13 hundred years as it's been estimated, the costs,
14 that will be refined and as the design would
15 proceed, and I indicated the responsibility,
16 liability of the companies, responsible parties,
17 does not end. As long as there is contamination
18 there, companies will be liable.

19 There are mechanisms to ensure financial
20 resources become available, too. There could be
21 some discussions. That remains to be seen, how
22 that, in fact, would occur. There are a number
23 of large companies; no guarantee they're all
24 going to be present. In any event, they are
25 legally responsible.

1 MR. RIOPELLE: My name is James
2 Riopelle. I've been in construction for almost
3 30 years. And my questions pertain to was this
4 project put out to public bid? And are we privy
5 to copies of the contractors who bid on this?
6 And then I have another question after this,
7 please.

8 MR. HILL: Jim, if you're in the
9 construction business, you know that you need a
10 design before you can put it out to bid. It's
11 not to design. It's still a concept level.

12 MR. RIOPELLE: So this is negotiable?

13 MR. HILL: It's not negotiated. It
14 is not even finalized. This is still a concept
15 plan that's being evaluated, whether or not to
16 dredge or to dredge and cap.

17 MR. RIOPELLE: Who is doing the work
18 on the river now?

19 MR. HILL: There is two different
20 active remediations going on right now, if
21 that's what you're asking about, instead of the
22 specific docket for today. The project up in
23 Little Lake Butte Des Morts is -- the owner of
24 that project is GW Partners. It's a group of
25 Gladfelter and WTM, two of the responsible

1 parties, who hired CH2M Hill, Foth & Van Dyke
2 and J.F. Brennan in order to accomplish the
3 dredging. I don't know if they put it out to
4 bid or not.

5 The project that is just north of the De
6 Pere dam is being done by NCR and U.S. Paper.
7 They went out to bid. They hired Severson
8 Environmental Services and they're the ones
9 doing the dredging right now.

10 MR. RIOPELLE: Where does Boldt fit
11 in this scenario here?

12 MR. HILL: Boldt is hired by the
13 State of Wisconsin to be our technical oversight
14 consultant to help us in the evaluation of the
15 dredging and capping and design facets of this.
16 The State of Wisconsin and EPA does not have
17 staff with the technical expertise.

18 Boldt has brought in experts besides Boldt
19 employees, including Dr. Mike Palermo, a P.E.,
20 Ph.D., who worked 35 years with the Corps of
21 Engineers and has basically written most of the
22 current documents on developing caps in river
23 systems; Tim Harrington, who has a dredging
24 company out of Indiana to help us in evaluation
25 of dredging techniques. And then there's NRT

1 who is a consulting engineering firm out of
2 Pewaukee, who has experience in developing
3 dredge plans through the Midwest.

4 MR. RIOPELLE: I just have a very
5 brief statement. Boldt has a very strong
6 relationship with the paper mills, as everybody
7 knows in this room, or if you don't, you will
8 know. They started off as a contractor to the
9 paper mills. So there is a very, very strong
10 relationship there. And I know that Boldt has
11 never been involved in a project like this
12 before because I used to work for them and,
13 Greg, you don't remember me but I used to call
14 on you.

15 I have very, very serious concerns with the
16 closed meetings, as Becky Katers has brought
17 forth. I've heard it from other sources as
18 well. There are threats from the paper mills
19 that they are going to leave. P.H. Gladfelter
20 did leave because it was better for them to go.
21 They left because they didn't want to pay the
22 fine. Now there's rumors that Kimberly-Clark
23 will do the same thing, and that's why these are
24 behind closed doors.

25 And I can't reveal my sources but I can tell

1 you something else that I would like to talk to
2 you, Becky, about. There is some serious
3 problems with the Appleton water plant, and it's
4 going to cost the people of Appleton \$15 to \$20
5 million to repair that water plant. And that's
6 all.

7 MR. FRISK: Charlie Frisk from Green
8 Bay, Wisconsin. And my question would go either
9 to Greg or Jim.

10 Now something I think I heard at the
11 beginning when you guys were speaking at the
12 beginning was that part of the reason for going
13 to the modified plan, capping combined with
14 dredging, was strong popular support. Now I've
15 been to two of these public hearings and I think
16 I've heard one person speak in favor of the
17 capping.

18 Now I coach 9th grade football. If these
19 hearings were football games, I would be in
20 danger of losing my job for illegally,
21 unnecessarily, unfairly piling on the score.
22 Where is this strong public support? There is
23 lots of seats open. There is free cookies and
24 juice, so anybody that was in favor of capping
25 should be here. Is it phone calls or letters or

1 people knocking on doors? Or where is this
2 support?

3 MR. HAHNENBERG: As far as I know, I
4 never heard an agency person say there is
5 overwhelming support for the plan. We have not
6 said that. It's a mixed review, quite frankly.
7 The public meeting, if you were here in
8 December, it was two to one.

9 (Inaudible comments from audience.)

10 MR. HAHNENBERG: Look at the
11 comments. That is I think the way it would
12 shake out, but you could look for yourself. The
13 transcript, by the way, from that public meeting
14 is on the DNR website. So you can look at that,
15 and you can get a reading kind of the level of
16 support. The comments we have received there
17 have also been a similar kind of mixed bag.

18 UNIDENTIFIED SPEAKER: Could we take
19 a vote at the end of this meeting?

20 MR. HAHNENBERG: Public comment
21 period is not meant to be a vote. It's meant to
22 get information on the plan. If there's more
23 information, that's fine.

24 UNIDENTIFIED SPEAKER: You say you
25 have support but we don't think you do. Let's

1 take a vote right now.

2 MS. FRARY: This is just a
3 question-and-answer period. I know that people
4 are a little anxious. We are going to do these
5 last questions here. I appreciate the sentiment
6 but I don't want to cause any undue awkwardness
7 for the panelists who have more than graciously
8 been here, answered the questions.

9 UNIDENTIFIED SPEAKER: When you say
10 you got a two-to-one, the possibility -- I mean,
11 you've got people here that took a Saturday
12 afternoon where they would sooner be gardening
13 or fishing, took two-and-a-half hours out of
14 their time to get here, and possibly where
15 they're getting whatever the number is, is
16 somebody goes into a paper mill, walks down the
17 line, hands somebody a sheet, says "sign this or
18 you're going to lose your job."

19 MR. HAHNENBERG: It's hard to judge
20 the nature of the comments because there is -- a
21 lot of comment on both sides were "for" votes,
22 so how do you weigh those? I don't know. So
23 that's why I hesitate to give a number. I
24 appreciate the people coming out today.

25 We understand it takes their time and I

1 thank you for doing that. It's good to hear
2 from people, and we look forward to hearing what
3 peoples' concerns are. If there is new
4 information, that may help us make the
5 decisions.

6 MS. MORTARA: My name is Candace
7 Mortara, and you guys have alluded to new
8 information. You've alluded to new information
9 that's come forward since the last Record of
10 Decision. I was just wondering if you could go
11 into specifics as far as what that information
12 has been?

13 MR. HAHNENBERG: Sure. The predesign
14 effort that led up to the proposed plan involved
15 taking ten thousand sediment samples between
16 Little Rapids and Green Bay, so we have about
17 roughly four times the number of samples that we
18 had before the original decision. So we had a
19 lot more data from that context.

20 We also have other information from the
21 dredging projects that have been ongoing up in
22 Lake Butte Des Morts in terms of results, how
23 that project has been going on, what kind of
24 efforts need to be taken there, what kind of
25 results we were seeing in this project.

1 We have other information, other capping
2 projects that have been ongoing as well. So we
3 looked at all that information as well as
4 additional evaluations by engineers, other
5 experts on the project. But we have a lot more
6 information than we did then.

7 MS. KATERS: Our group has recently
8 got new information. We did hire a technical
9 expert actually using an EPA grant, and he did a
10 lot of review of the documents leading up to
11 this capping plan. He reviewed technologies
12 that are rapidly developing to detoxify
13 sediments, not simply landfill them or cap them.

14 One of the most interesting ones is called
15 soil washing. That has been used full-scale
16 recently in Newark Bay, New Jersey and they are
17 about to issue a report on it and I talked with
18 the people who did that work, and they're
19 getting very good results from removing PCBs and
20 mercury and other very similar kind of
21 contaminants from sediment so that you can take
22 a more concentrated material, break it down and
23 treat it and then have cleaner material that you
24 can use for construction or other uses. It's a
25 low energy alternative. It's not like the

1 vitrification process that requires very high
2 temperature burns; very energy intensive, very
3 expensive. Soil washing is less expensive and a
4 cooler process. It's closed, also, so that you
5 don't have volatilization of PCBs off in the
6 air; very good technologies that are being
7 evolved.

8 And we have been very frustrated over the
9 last 20 years that we haven't been able to get
10 the agencies to really dig into these new
11 technologies and to do pilot tests here of the
12 different technologies to see if we can't get a
13 better solution.

14 MR. HAHNENBERG: As to new
15 information, just to make sure it's clear, and
16 that is if we do also get new information in the
17 public comment period, including things like
18 other treatment technology, things like that,
19 those are all things that are factored into our
20 final decision, all the new information that we
21 get during the comment period as well.

22 MS. WALDRON: My name is Maggie
23 Waldron. I'm a biology student at Lawrence
24 University.

25 First of all, there have been some studies

1 done on the health risks. You can find those in
2 the Wisconsin Medical Journal, but my question
3 for you is I've done a lot of research on the
4 PCBs in Fox River sediments. It's my
5 understanding that they're not immobile, that
6 they move upwards at an annual rate, and how
7 have you factored that into your capping design?

8 MR. HAHNENBERG: That has been looked
9 at. It was actually looked in the original
10 decision document where we looked at the
11 movement of PCBs in the system, part of what we
12 call a concept model. So that was factored into
13 our decision earlier and will be part of this
14 decision as well to conceptualize, consider
15 that.

16 MR. COLE: My name is Dan Cole. I
17 live in Oconto County, fish a lot on the Bay of
18 Green Bay. It's C-o-l-e. I was wondering, the
19 way I understood it is the DNR is going to make
20 the final decision on the method?

21 MR. HILL: It will be a joint
22 decision between DNR and EPA. We are the lead
23 agency. DNR is the lead agency for this site.

24 MR. COLE: If the decision was to
25 dredge versus the capping or the 90 percent

1 dredge, 10 percent cap, would the project move
2 on at the same speed?

3 MR. HILL: The original plan for
4 dredging only originally thought the dredging
5 would be accomplished in around ten years. With
6 the new information about the location of the
7 PCBs and the ability to dredge, it's now been
8 estimated that a dredge-only alternative would
9 take between 15 and 20 years. The combination
10 of the dredging and capping is estimated to take
11 nine or ten years, so the proposed plan would be
12 implemented in a shorter amount of time.

13 MR. COLE: I guess my question is
14 would it begin at the same time or would the
15 paper mills drag this out to a longer period of
16 time if it's a more expensive plan?

17 MR. HILL: I don't know what the
18 answer to that is.

19 MS. KATERS: One thing that has
20 always been concerned with the speed of the
21 clean-up is that they have to be willing to
22 create enough crews working simultaneously in
23 different areas of the river and that would
24 speed up the clean-up, to have multiple crews
25 all working at the same time and having an

1 adequate facility for transporting and treating
2 the waste. It can be done faster but it takes
3 willpower. That's what's been missing.

4 MS. BAYER: My name is Gina Bayer,
5 Appleton native resident. I'm also an
6 environmental scientist. I have my own
7 contaminated sediment site that took me some
8 years to clean up dredging, but we also used
9 capping on one portion of it and I believe that
10 capping can be appropriate for certain portions
11 of the river, certain circumstances. Just
12 wanted to show you -- here is a table. There
13 are many people in the industry who follow
14 capping sites. These are all capping sites
15 throughout the nation and they follow how
16 effective they have been over the years.

17 Dr. Kuhns mentioned that there is always new
18 ideas coming up. Scientists are always
19 discovering new things. There is a second
20 generation of capping that's coming out, and in
21 one of the techniques they used mentioned
22 activated carbon.

23 You don't always have to take the sediments
24 out of the water to treat them. There is a type
25 of reactive caps currently being pilot-tested

1 and have been applied in certain cases that will
2 treat contaminants to keep it out of the system.
3 So I just wanted to say that I do support DNR,
4 EPA. I think they are seriously, sincerely
5 working hard on the Fox River and they do have
6 support. Thanks.

7 MS. SCHABER: I'm Penny Bernard
8 Schaber. I live in Appleton, and the EPA
9 suggestion that we have nine criteria to judge
10 things on, I'm wondering how much weight does
11 public non-acceptance of the capping plan have,
12 and how and when will the decision be made? And
13 when and how will it be reported so that we all
14 know who and what criteria was used to make this
15 decision?

16 MR. HAHNENBERG: I don't want to make
17 a prediction as far as when the decision will be
18 made because I'm not making it.

19 In terms of how it would be presented to the
20 public, it would be in a Record of Decision
21 Amendment unless we decide not to do it at all,
22 but in any event, the public would be notified
23 in that or in some other document when the
24 decision was made. What was the other question?

25 MS. SCHABER: How does public

1 non-acceptance or apparent public
2 non-acceptance, how much weight does that have?

3 MR. HAHNENBERG: Well, public
4 acceptance is given weight. The real weight in
5 terms of what we hear from the public is given
6 to information that tells us from a technical
7 basis if the remedy is going to be protective or
8 not. There are other things that can be
9 considered such as other material that comes
10 into play. All this has to revolve around those
11 kind of considerations. The information, the
12 evaluation may come from the public but it has
13 to be weighed into these other criteria no
14 matter what the decision is.

15 MS. FRARY: I want to thank everyone
16 for coming. I think it was a great event and I
17 hope that you all had a chance to ask questions.
18 I ask that we give our panelists a round of
19 applause.

20 (Applause)

21 Thank you all for coming.

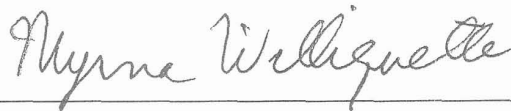
22 (Proceedings concluded at 2:15 p.m.)
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STATE OF WISCONSIN)

COUNTY OF BROWN)

I, MYRNA WILLIQUETTE, a Notary Public and
Registered Professional Reporter in and for the State of
Wisconsin, do hereby certify that the foregoing proceedings
were taken at said time and place and is a true and
accurate transcript of my original machine shorthand notes.

Dated at Green Bay, Wisconsin
This 30TH DAY of MAY, 2007.



MYRNA WILLIQUETTE, RPR, RMR
Notary Public, State of Wisconsin
My commission expires on 5/23/2010.

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